

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

**REPLY COMMENTS  
OF  
SPRINT CORPORATION**

Richard Juhnke  
Jay C. Keithley  
Brian Staihr  
Julie Ward  
Norina Moy  
401 9<sup>th</sup> St., NW, Suite 400  
Washington, DC 20004  
(202) 585-1915

November 5, 2001

## Table of Contents

I.	SUMMARY AND INTRODUCTION .....	1
II.	BILL AND KEEP FOR LOCAL TRAFFIC IS ECONOMICALLY JUSTIFIED .....	2
	A. Would B&K Emerge from an Unregulated Market? .....	3
	B. Does CPNP Minimize Negative Externalities? .....	7
	C. Would B&K Lessen the Need for Regulation? .....	9
III.	BILL AND KEEP NEED NOT BE IMPLEMENTED SIMULTANEOUSLY FOR LOCAL AND ACCESS TRAFFIC .....	10
IV.	THE COMMISSION CAN AND SHOULD ADOPT A NATIONAL RULE GOVERNING POINT OF INTERCONNECTION EVEN IF IT DOES NOT ADOPT A BILL AND KEEP REGIME .....	14
V.	CARRIERS HAVE AN OBLIGATION TO CONNECT INDIRECTLY WITH OTHER CARRIERS .....	16
VI.	THE COMMISSION SHOULD CONTINUE TO ALLOW USE OF VIRTUAL RATE CENTERS .....	19
VII.	CONCLUSION .....	20



Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

**REPLY COMMENTS OF SPRINT CORPORATION**

Sprint Corporation, on behalf of its incumbent LEC, competitive LEC, long distance, and wireless divisions, hereby respectfully submits its reply to comments filed on August 21, 2001 in the above-captioned proceeding.

**I. INTRODUCTION AND SUMMARY.**

As evidenced by the volume of comments filed in this proceeding, there is considerable dispute over the merits of replacing the current mix of intercarrier compensation mechanisms with a bill and keep regime. In its initial comments, Sprint described the significant public interest benefits which would result from adoption of a bill and keep regime for local traffic.<sup>1</sup> We continue to believe this to be true, and address concerns raised by AT&T regarding the economic justification of bill and keep (Section II below). Sprint does agree that it would be premature to replace the existing system of access charges with bill and keep, and explains why the Commission should implement bill and keep for local but not access traffic (Section III below).

---

<sup>1</sup> Sprint includes in the "local traffic" category wireline and intraMTA CMRS local calls as well as interconnected local calls to ISPs.

Whether or not the Commission decides to adopt a bill and keep regime, it can and should adopt a national rule governing point of interconnection (POI) (see Section IV below). The Commission should also make clear that transit obligations extend to carriers that connect indirectly with other carriers (Section V below). Finally, the Commission should continue to allow the use of virtual rate centers to help ensure that dial-up ISP service remains affordable to end users (Section VI below).

## **II. BILL AND KEEP FOR LOCAL TRAFFIC IS ECONOMICALLY JUSTIFIED.**

In its comments, AT&T included an affidavit from Dr. Janusz A. Ordovery and Dr. Robert D. Willig which purports to demonstrate that bill and keep (B&K) is economically inefficient. Drs. Ordovery and Willig conclude (Affidavit, p. 6) that a B&K regime, if adopted, would not lessen the need to regulate and would be “affirmatively harmful” to consumers and competition. Sprint demonstrates below that certain key assumptions underlying the Ordovery/Willig analysis are invalid, and that their conclusions are accordingly incorrect.<sup>2</sup> Specifically, Sprint responds to AT&T’s assumptions that bill and keep would not emerge from an unregulated market; that the existing calling party network pays (CPNP) approach, unlike B&K, minimizes negative externalities; and that bill and keep does not lessen the need for regulation.

---

<sup>2</sup> Sprint’s reply to the AT&T analysis is limited to B&K for local traffic only. As Sprint stated in its initial comments (and as is discussed further in Section III below), at this point in time, B&K should be implemented only for the exchange of local, not access, traffic.

**A. Would B&K Emerge from an Unregulated Market?**

In analyzing the impact of B&K on consumers, Drs. Ordoover and Willig begin by using, as a benchmark, the likelihood that a B&K regime would emerge from a competitive market. They conclude (p. 6) that it is highly unlikely that B&K would emerge through voluntary arrangements in a competitive telecommunications market, based on the following premises: (1) B&K encourages more unwanted calls, because calling parties are allowed to terminate unwanted calls for free; (2) B&K forces called parties to pay for terminating these unwanted calls; and (3) most customers would resist the imposition of such costs. As discussed below, none of these statements withstands scrutiny.

If Drs. Ordoover and Willig are correct in saying that B&K encourages unwanted calls, then it must also be true that B&K also encourages wanted calls. In fact, it is impossible to designate a call as “wanted” or “unwanted” until the call has been completed, since what constitutes an unwanted call to one customer may constitute a wanted call to another. Hence, the authors’ claim could be more accurately re-stated as follows: *B&K encourages more calling, since calling parties can effectively terminate calls for free.* The implications of this statement must now be addressed on several levels.

First, assuming the statement is correct, there is clearly no *a priori* reason to believe that unwanted calls would be encouraged more or less than wanted calls. To claim otherwise would be to assume that the price elasticity of demand for calling is different for callers making unwanted calls than for callers making wanted calls. Such an

assumption is clearly nonsensical, because it is the same caller making a “wanted” and an “unwanted” call; the distinction depends entirely on the called party’s reaction.

Furthermore, let us assume for the moment that the majority of calls received are actually “wanted” calls. This is a reasonable assumption given the numerous mechanisms in place for end users to reduce or limit the number of unwanted calls they receive -- call screening devices, unlisted numbers, no-call lists, etc. If it is true that B&K encourages calling, this implies that social welfare would actually *increase* under a B&K regime, since the net benefit of receiving calls is positive, and since the overall net benefit increases as more calls are made.

More importantly, the statement that “B&K encourages more calling, since calling parties can effectively terminate calls for free,” can be true only if callers somehow *realize* the benefits that carriers enjoy when they do not pay for termination, *i.e.*, if carriers pass through these cost savings to their customers, and do so on an individual customer basis. In a world of flat-rated pricing (as is widely applied for local exchange service), this is extremely unlikely. Under the existing CPNP regime, although carriers pay inter-network termination costs on a per-minute basis, they do not recover these costs from customers on a per-minute basis; customers pay an average rate that includes an amount to cover average termination costs that the carrier incurs, both intra- and inter-network.<sup>3</sup> The same would be true under a B&K regime: customers would pay an average rate that would cover the average costs of terminating calls made to them, calls originating on the same network (which they pay for now under CPNP) and calls

---

<sup>3</sup> The costs of terminating intra-network calls are primarily the carrier’s own switch usage.

originating on another network. The fact is, B&K would *not* encourage more calling, because even under a B&K regime prices would remain 1) averaged, 2) unaffected by volume, and 3) unaffected by point of termination. In the absence of customer-specific pricing, the cost savings simply cannot be passed on to individual customers. A customer who primarily originates calls terminating on another network (thereby providing the carrier with cost savings) would pay an identical amount as a customer who primarily originates calls terminating on the same network. The carrier might realize benefits and cost savings, and these may be passed through to customers *en masse*, but no individual customer's bill is affected by his or her calling pattern. Therefore, no customer has an incentive to change his or her calling pattern.<sup>4</sup> This theoretical outcome is supported by empirical results: in its experience as a LEC serving more than nine million access lines in eighteen states, Sprint has not seen an increase in calling volumes in any region where we have voluntarily entered into a B&K agreement for local traffic.

Drs. Ordoover and Willig's statements that B&K forces parties to pay for terminating unwanted calls, and that most customers will resist the imposition of those costs, similarly fail to withstand scrutiny. First, under the existing CPNP regime, parties currently pay for terminating unwanted calls that originate on the same network. Yet parties do not "resist the imposition" of such costs. Rather, customers understand that when they purchase basic service, they are purchasing the ability to place and receive all types of calls. From a purely practical standpoint, it would be impossible for customers

---

<sup>4</sup> In fact, even if a carrier wanted to pass through cost savings to a specific customer and was allowed to do so by regulators, such a measure would require customer-specific monitoring and tracking of termination points which would, in all likelihood, erode the very cost savings the carriers are attempting to pass on.

to purchase the option of receiving only “wanted” calls since the caller must receive the call before he or she can know if it is wanted or not.

Even if customers did “resist the imposition” of the costs of unwanted calls, Drs. Ordoover and Willig’s suggestion that a market-based mechanism would not produce such a situation is patently incorrect. Specifically, they state (p. 7) that any carrier “seeking to satisfy customers” would be unlikely to enter into an arrangement in which customers pay for the privilege of receiving unwanted calls. This suggests that a market-based competitive environment would create a situation where carriers enter into arrangements in which customers pay only for “wanted” calls. The implications of such a claim border on the absurd. If Drs. Ordoover and Willig are correct, their logic suggests that the market mechanism would create a world in which moviegoers only pay the price of a ticket if they like the way the movie ended; that purchasers of lottery tickets would only pay if the ticket held the winning numbers; and that purchasers of stock options would have their money refunded if the stock price never climbed higher than the strike price. While such a world might be very pleasant for consumers, the reality is that the market mechanism often produces situations in which customers pay a price for something that involves uncertainty and the possibility of an undesirable outcome. When a customer pays for the ability to receive incoming calls, he or she knows that a few of the calls may be unwanted. The situation is no different than when a customer purchases season tickets to a sporting event, knowing that some of the games may very well produce an undesired outcome.

**B. Does CPNP Minimize Negative Externalities?**

Drs. Ordoover and Willig assert (p. 14) that, in examining a B&K regime, the Commission has placed undue weight on positive externalities associated with call termination and insufficient weight on the corresponding negative externalities. They claim that the existing CPNP regime reduces, to the greatest extent possible, the negative externalities associated with telephone calls, because CPNP requires the calling party to pay for the entire cost of a call, and because higher costs to the calling party reduce the supply of unwanted calls. Here again, the above assumptions do not withstand scrutiny.

If the statements above are correct, the logical corollary is that high costs to the calling party also reduce the supply of *wanted* calls. If on average the majority of completed calls are wanted calls, which is extremely likely, then CPNP has the net effect of reducing social welfare.

More importantly, Drs. Ordoover and Willig have again incorrectly assumed that costs imposed on carriers in a CPNP regime (or, correspondingly, any cost savings enjoyed by carriers in a B&K regime) are somehow *passed through* to individual end users, and are figured into an end user's decision regarding call volumes and the decision to place or not place a call. To illustrate the fallacy of this assumption, Sprint would note that in many parts of its local serving territory, customers are able to place local calls that may interconnect with one or two other local carriers. If Sprint has established a B&K regime with one of the carriers but pays reciprocal compensation to the other, the process of connecting calls to each carrier involves a different cost to Sprint but not to Sprint's residential end users, because all end users pay the same R1 rate. If Sprint's costs change (for example, if both carriers opt for either B&K or reciprocal compensation), it is

conceivable that the R1 rate might be adjusted up or down. But it is impossible for such an adjustment to affect any individual customer's calling volume because R1 rates are insensitive to volume and volume is insensitive to R1 rates.<sup>5</sup> Therefore, Drs. Ordoover and Willig's claims regarding reduction of negative externalities fall flat on two levels: if CPNP reduces negative externalities, it reduces positive externalities more. And the assumption that CPNP reduces negative externalities is dependent on the erroneous belief that an individual customer making primarily unwanted calls is making fewer calls than she would under a B&K regime, because somehow she is paying more for making those calls than she would under a B&K regime. This is simply incorrect.

Finally, as noted above, customers possess the ability to significantly reduce negative externalities (*i.e.*, unwanted calls) on their own. No-call lists, Caller ID, answering machines, unlisted numbers and more all provide end users with effective ways of eliminating unwanted calls.<sup>6</sup> In fact, when discussing negative externalities, Drs. Ordoover and Willig demonstrate a striking misunderstanding of one key fact: whether the externality produced is positive or negative depends entirely on the called party's reaction. If the call is "wanted," the externality is positive; if the call is "unwanted," then the externality is negative. Drs. Ordoover and Willig state (p. 15) that an efficient compensation regulation must provide incentives to callers to "desist from making calls that are undesired by the called party." This is clearly impossible because the calling

---

<sup>5</sup> Although clearly not the issue at hand, one could argue that, at the extreme, volume would drop to zero if R1 rates rose to such a level that the customer opted to discontinue service.

<sup>6</sup> These mechanisms do not always prevent unwanted calls from being placed or completed; however, they do eliminate the negative externalities associated with the unwanted calls because the called party does not have to participate in the call.

party has no control over whether the call is wanted or unwanted. It is impossible to create a compensation regime designed to keep a caller from making one “type” of call when the call is not “typed” until after the call is made!

**C. Would B&K Lessen the Need for Regulation?**

One of the key arguments against B&K made by Drs. Ordoover and Willig is that it offers no “savings in the costs of regulation or administration” over the existing CPNP regime. They state (pp. 9-10) that because a B&K regime would move termination costs to end users, regulators would simply have to focus on end user charges rather than inter-carrier charges, and “either way, rate regulation could not be avoided.” Drs. Ordoover and Willig recite a litany of potential horrors that could result from ineffective regulation of end user charges: market power exploited, supra-competitive rates, favorable treatment to affiliates, the recovery of usage-sensitive costs from flat rate prices, cross-subsidization among customers, and more. In short, Drs. Ordoover and Willig seem to suggest that B&K creates a veritable breeding-ground for opportunistic behavior and market inefficiencies.

Sprint respectfully disagrees, and (once again) points out that under the current regime, carriers recover the costs of terminating intra-network traffic from their own end users, through end user rates. If Drs. Ordoover and Willig are correct in their assumptions regarding opportunistic behavior and inefficiencies, we must conclude that all of the above-mentioned problems are occurring right now with regard to intra-network termination costs, and wherever B&K arrangements have been entered into by mutual consent. This is, of course, not the case. Furthermore, many of these suggested problems occur equally under the existing CPNP regime. Under CPNP, carriers charge customers

an average rate that covers an average cost incurred for terminating traffic on other networks. To use Drs. Ordoover and Willig's words, if carriers can "exploit their market power vis-à-vis end users by charging supra-competitive rates for termination" of traffic coming from other networks (under B&K), is there any reason why they cannot do the same thing for traffic terminating to other networks under CPNP? Similarly, the "usage-sensitive-cost-recovered-by-flat-rate-price" issue exists under either regime, as does the purported problem of end users with above-average levels of traffic being cross-subsidized by end users with below-average usage.

There are regulatory mechanisms in place today to deal with end user charges that include intra-network termination costs. The same mechanisms can and presumably would be used to handle an end user charge that includes inter-network termination costs. The potential for opportunistic behavior or market inefficiencies is no greater under B&K than under CPNP. However, what is *avoided* through a B&K regime is the need to regulate inter-carrier charges for termination. Regulatory hearings, arbitration proceedings, etc. that are dedicated to establishing reciprocal compensation charges cause carriers to incur real costs that are passed on to end users. B&K eliminates these very real costs.

### **III. BILL AND KEEP NEED NOT BE IMPLEMENTED SIMULTANEOUSLY FOR LOCAL AND ACCESS TRAFFIC.**

In comments in this proceeding, Sprint and numerous other parties explained that implementation of a bill and keep regime offers significant public interest benefits. For example, a bill and keep regime:

- generates savings on transactions costs (monitoring, measuring and billing traffic handled by other carriers), and reduces the need for economically arbitrary common cost allocations across networks;<sup>7</sup>
- reduces carriers' ability to charge excessive termination rates;<sup>8</sup>
- reduces certain arbitrage opportunities, such as those associated with the generation of large reciprocal compensation payments for one-way traffic and with the use of IP-based rather than circuit switched telephony.<sup>9</sup>

Many parties, both those opposed to bill and keep in its entirety and those opposed to partial implementation of bill and keep (*i.e.*, for local but not access traffic), point out that there are serious concerns associated with the existing access charge system which makes its replacement with a bill and keep system extremely problematic. These concerns include the need to ensure jurisdictional (federal/state) coordination to minimize arbitrage, customer confusion, and administrative expense;<sup>10</sup> the need to replace the implicit subsidies still included in interstate and intrastate access charges with explicit funding;<sup>11</sup> and the need to consider the impact of a switch to bill and keep on end user charges and universal service funding requirements.<sup>12</sup> Some parties also note that

---

<sup>7</sup> See, e.g., NPRM, paras. 39 and 51; Sprint, pp. 6-8; Cable & Wireless, p. 10; Level 3, p. 24; GSA, p. 5.

<sup>8</sup> See, e.g., NPRM, para. 38; Cable & Wireless, p. 9; SBC, p. 50; Qwest, p. 8; GSA, p. 4.

<sup>9</sup> See, e.g., NPRM, para. 52; SBC, p. 50; Level 3, p. 21; Qwest, p. 8; BellSouth, p. 3.

<sup>10</sup> See, e.g., Sprint, p. 23; AT&T, p. 3; Allegiance, p. 5; Time Warner, p. 19; BellSouth, p. 4; SBC, p. 25; Verizon, p. 15; USTA, p. 26.

<sup>11</sup> See, e.g., Sprint, p. 24; BellSouth, p. 4; SBC, p. 20.

<sup>12</sup> See, e.g., Sprint, p. 24; Allegiance, p. 45; Time Warner, p. 25; SBC, p. 11; NECA, p. 3; Alaska PUC, p. 3; Florida PSC, p. 3; Texas Office of Public Utility Counsel, p. 7. Sprint would note that end user rates did not increase as a result of the introduction of reciprocal compensation, and there is no reason to believe that end user rates would increase if bill and keep were implemented to replace reciprocal compensation for local traffic. The

allowing the originating LEC to assume responsibility for access arrangements for long distance calls gives that LEC greater control over the quality of the calls handled by actual or potential long distance competitors.<sup>13</sup>

These are all legitimate concerns, and until these complicated issues can be addressed, Sprint agrees that the existing access charge regime should not be replaced with a system of bill and keep. Although the Commission has taken steps to address certain of these issues -- for example, by adopting access charge reform plans for interstate access charges assessed by price cap and rate-of-return LECs -- much work remains to be done, particularly as regards intrastate access charge reform and the rationalization of local service rates. As many parties have recommended, such issues are best addressed by a Federal/State Joint Board.<sup>14</sup>

Sprint concedes that partial implementation of bill and keep could exacerbate some forms of arbitrage if carriers attempt to game the system by mis-reporting their traffic (claiming their usage is local, and thus subject to bill and keep, rather than exchange access, subject to interstate or intrastate access charges), or if carriers turn to technological platforms that enable them to minimize (at least during the interim period) access expense (for example, providing voice service using IP-based rather than traditional circuit switched technology). However, declining to implement bill and keep

---

same is not true for exchange access service. If the current access charge regime were replaced by a system of bill and keep, end user rates would in fact increase as access cost recovery is shifted from IXCs to end users. Competitive pressures would ensure that long distance carriers would flow through any access cost savings in the form of lower long distance rates, but the impact on individual end users would vary.

<sup>13</sup> See, e.g., AT&T, p. 29; WorldCom, p. 4.

<sup>14</sup> See, e.g., Sprint, p. 27; Alaska PUC, p. 3; Florida PSC, p. 1; Iowa Utilities Board, p. 3; Missouri PSC, p. 4; NARUC, p. 1; Wisconsin PSC, p. 2.

until everything is “fixed” will only delay the public interest benefits noted above – reducing certain transaction costs, reducing the terminating access monopoly problem, and reducing other arbitrage opportunities. Indeed, it could be that fears of arbitrage resulting from partial implementation of bill and keep are overstated. At least one state, Iowa, has used bill and keep arrangements “in all of its wireline-to-wireline interconnection agreements for several years and has found the arrangement very satisfactory” (Iowa Utilities Board, p. 1). Iowa did not indicate that it had experienced any untoward increase in arbitrage as a result of its decision to implement bill and keep for local traffic.

It is difficult and perhaps impossible to quantify accurately either the dollar value of the benefits of implementing bill and keep only for local traffic, or the dollar costs of such partial implementation. However, Sprint believes that a decision to implement bill and keep initially only for local traffic offers the added benefit of stimulating federal and state efforts to rebalance access rates and rationalize local service (especially residential) rates. A decision by the FCC to move to a system of bill and keep would highlight the need to move rates closer to the economic cost of providing access and local exchange services, and provide additional impetus to efforts to comply with the statutory requirement that implicit subsidies be removed from access charges. By referring this matter to the Joint Board, state commissions and consumer groups can be assured that appropriate steps will be taken to identify areas where targeted additional universal service support might be necessary and appropriate.

**IV. THE COMMISSION CAN AND SHOULD ADOPT A NATIONAL RULE GOVERNING POINT OF INTERCONNECTION EVEN IF IT DOES NOT ADOPT A BILL AND KEEP REGIME.**

As discussed in its initial comments (p. 29), Sprint supports the current FCC rules requiring a CLEC or CMRS carrier to establish one Point of Interconnection (POI) in each LATA in which it wishes to exchange local traffic.<sup>15</sup> Sprint also agrees that it is the responsibility of the originating carrier to bear the cost of the transport to deliver the traffic to the POI, especially if the POI is within the local calling area of the originating office.<sup>16</sup> Moreover, it is necessary to distinguish between the local calling scope for landline carriers versus the local calling scope for a CMRS provider. Section 51.710(b)(2) of the Commission's rules clearly requires that a CMRS call that originates and terminates within the Major Trading Area (MTA) be considered a local call. Therefore, the ILEC is responsible for bearing the transport costs for such a call to the POI, if the call remains within the MTA.

The Point of Interconnection (POI) issue is one of the most controversial issues in interconnection negotiations and arbitration proceedings, and resolution of this issue has varied widely among carriers and across states. Several carriers have recommended that the Commission "seek extensive comment before settling upon any definitive answer" (Qwest, p. 22). But this is precisely what the Commission has done in the instant proceeding, and Sprint opposes additional lengthy proceedings which add little of

---

<sup>15</sup> Sprint's POI proposal does not address how the costs of the actual interconnection facility joining the two carriers' networks should be handled, and there was no consensus in the comments filed in this proceeding as to an appropriate allocation methodology.

<sup>16</sup> As the Commission recognizes, the cost of transport when the POI is located outside the local calling area is a matter of debate and is not addressed by its current rules.

substance to the record and needlessly delay adoption of a national rule. As Verizon correctly pointed out (p. 11), there is an immediate need for the Commission to “promptly resolve disputes under the current rules concerning transport costs.” A national rule will provide certainty, help ensure competitive equity across regions and carriers, and will simplify and reduce time- and resource-intensive interconnection negotiations and arbitration proceedings.

Some carriers claim that the FCC’s existing POI rules are adequate and that there is no need for additional rules. For example, Allegiance asserted (p. 27) that “it and many other CLECs have met the duty to establish multiple POIs per LATA where traffic patterns warrant notwithstanding the Commission’s single POI per LATA default rule.” Allegiance further stated (pp. 28-29) that “disputes over the establishment of additional POIs in a LATA are being addressed adequately by states commissions in interconnection arbitrations throughout the country. The Commission’s rule is working, and it should not abandon that rule.” Sprint respectfully disagrees. Sprint and other carriers continue to expend massive resources arbitrating the POI issue in each state that they serve – hardly an indication that the state-by-state, carrier-by-carrier approach is working.

Like Allegiance, AT&T asserted (p. 60) that there is simply no “one-size-fits-all” solution to interconnection point decisions, and that under current practices, it is forced to reconsider its single POI configuration when its traffic levels to and from distant customers reach a significant level. Sprint agrees that carriers that handle two-way traffic may find it economic and rational from a network engineering perspective to deploy additional POIs to accommodate higher traffic volumes. However, in situations where

the traffic is primarily one way (for example, to ISPs), the carrier terminating such traffic has less of an incentive to establish multiple POIs.<sup>17</sup> To help to ensure that the originating carrier is not unreasonably burdened by the originating transport cost in such situations, the Commission should adopt Sprint's plan for allocating transport costs for interconnection.

Allegiance recommended (p. 28) that "the establishment of additional POIs should be left to the discretion of the network planners for both companies, consistent with sound engineering principles, and not determined in the abstract by federal regulators not familiar with individual carriers' networks or traffic patterns." However, history has shown that leaving the POI decision to the discretion of individual carriers leads to lengthy negotiations, costly arbitrations, and potentially 50 different ways of doing business. Therefore, Sprint believes that the FCC should define a national rule which balances the ILECs' concern over controlling transport cost with the CLECs' need to interconnect and exchange traffic with the ILEC efficiently. As Sprint explained in its comments (p. 3), this national plan can and should be adopted irrespective of whether the Commission ultimately decides to implement a B&K regime.

**V. CARRIERS HAVE AN OBLIGATION TO CONNECT INDIRECTLY WITH OTHER CARRIERS.**

As Sprint stated in its initial comments (p. 33), the Commission should make it clear that carriers have an obligation to connect indirectly with other carriers. There are many instances where there are multiple ILECs serving portions of a local calling area,

---

<sup>17</sup> It is possible that the amount of one-way traffic and the associated regulatory arbitrage will be reduced as a result of the FCC's decision regarding intercarrier compensation for

*Footnote continued on next page*

and it would be extremely inefficient and anti-competitive to require a CLEC or CMRS provider to interconnect directly with each of these ILECs, much less with each of the other non-ILEC carriers. For example, just in the Minneapolis area, there are over 40 ILECs, CLECs, and wireless carriers that currently home off the Qwest Minneapolis tandem. To require direct interconnections between each of these carriers would require approximately 780 direct interconnections. It would be prohibitively expensive to require that number of direct interconnections. Indirect interconnection or transiting is essential to the development of a competitive marketplace.

Several ILECs seem to have a different opinion regarding transiting obligations. SBC, for example, stated (p. 28) that it is “strongly opposed to a B&K regime that would require ILECs to serve as the low-cost provider of transport for all other carriers.” Sprint agrees that the B&K rules should not apply to the transport provider that does not have a relationship with either end user involved in the call. Sprint also agrees that the transport provider deserves appropriate compensation for the transit service provided, and recommends use of TELRIC-based rates.

Some parties argued that allowing carriers to interconnect indirectly reduces those carriers’ incentive to invest in their own transport facilities, and thus reduces the likelihood of facilities-based competition. Sprint fully endorses efforts to stimulate facilities-based competition. However, forcing competitive carriers to duplicate the ILEC network and to deploy inefficient transport facilities will not promote competition; it only imposes a huge uneconomic burden on CLECs. In most cases, indirect interconnection

---

ISP-bound traffic (*Order and Remand and Report and Order* released April 27, 2001 in CC Docket Nos. 96-98 and 99-68).

using a transit provider is the most efficient use of network facilities when the volume of traffic exchanged between two parties does not warrant a direct connection.<sup>18</sup> Thus, requiring ILECs to connect indirectly with other carriers enhances those carriers' ability to provide services at *competitive* prices.

In considering the transiting issue, the Commission should also clarify which carrier is responsible for compensating the transit provider. A New York Commission decision in Case No. 00-C-0789 (issued on September 7, 2001) seems to require that the terminating carrier pay the transit charges for traffic that another carrier originates. Sprint, however, believes that the originating carrier is responsible for paying transit charges for traffic that it originates and delivers to a transit provider prior to being terminating by another carrier, particularly if the call is terminated within the local calling area (or, in the case of wireless traffic, calls originating and terminating within the same MTA). When a third party transit provider is utilized for a land-to-mobile call, the wireless carrier should never have the obligation to pay a transit charge for the traffic that remains within the MTA. Here again, a national rule as to which each carrier is responsible for paying the transit charge would be in the public interest.

The Commission should unequivocally require ILECs to perform transiting functions for indirectly interconnected carriers. The Commission's rules should also recognize the right of a transiting carrier to recover the costs of performing that function even under a B&K regime at TELRIC-based rates.

---

<sup>18</sup> Sprint would note that indirect interconnection is commonly used; IXC's, for example, do not directly connect with every ILEC.

## **VI. THE COMMISSION SHOULD CONTINUE TO ALLOW USE OF VIRTUAL RATE CENTERS.**

In its comments, Sprint recommended (p. 35) that the Commission reaffirm that carriers may use virtual NXX codes to provide local dial-up service to end users for ISP-bound traffic. As Sprint explained, allowing the continued use of virtual NXXs will help to ensure that dial-up ISP service remains affordable to end users.<sup>19</sup>

In contrast, several ILECs strenuously objected to the use of virtual rate centers (VRCs). Verizon, for example, claimed (p. 6) that virtual NXXs harm the originating carrier in three ways: (1) the carrier loses either toll or access revenues that it would otherwise collect on these calls; (2) it incurs the cost to transport the call to the terminating carrier; and (3) it pays the terminating carrier reciprocal compensation. None of these concerns is sufficient to prohibit the use of virtual rate centers.

If the Commission were to prohibit the use of virtual rate centers, carriers serving ISPs would have two choices: establish an actual presence in the exchange where the VRC had existed, or vacate the exchange. If the exchange is vacated, any dial-up calls placed from that exchange to the ISP become toll calls. Given the price elasticity of demand, it is likely that assessment of toll charges would sharply reduce end users' demand for those dial-up services. Thus, it appears that Verizon's claimed "lost revenues" problem may well be overstated.

The second option available to carriers serving ISPs -- establishing a physical presence within the exchange where their VRC was located -- has similarly negative

---

<sup>19</sup> Sprint does not address here wireless NXXs, which are always virtual because of the mobile nature of wireless traffic, other than to note that the standard industry practice of assigning virtual NXXs to wireless end users should not be disturbed.

ramifications for end user rates. Requiring CLECs to establish a physical presence in the exchange involves substantial collocation costs, which ultimately cause the rates for dial-up services to increase. And, this increase in end user costs is not offset by any benefit to the ILEC in terms of avoiding reciprocal compensation payments. If a CLEC has a physical presence in the exchange, Verizon would be required to pay reciprocal compensation on traffic that originates on the Verizon network and terminates on the CLEC network. Since Verizon also has to pay reciprocal compensation in the VRC scenario, prohibiting VRCs leaves it no better or worse off in terms of paying reciprocal compensation.

Sprint does agree that requiring the ILEC to bear the cost of transporting calls to the terminating carrier raises valid concerns. Nevertheless, this issue can be adequately addressed through adoption of Sprint's proposed compensation methodology (Sprint comments, pp. 32-37), which provides a reasonable safeguard for the ILEC on its provision of transport over long distances while allowing CLECs an efficient market entry alternative without incurring unnecessary and uneconomic collocation costs.

## **VII. CONCLUSION.**

As demonstrated above, implementation of a system of bill and keep for local traffic is in the public interest; however, because of the complex unresolved issues surrounding access charges, it would be premature to replace the existing access charge regime. Regardless of whether the Commission adopts a bill and keep regime, it should still adopt a national rule governing point of interconnection; clarify that carriers have an obligation to connect indirectly with other carriers; and continue to allow the use of virtual rate centers.

Respectfully submitted,

SPRINT CORPORATION

---

Richard Juhnke  
Jay C. Keithley  
Brian Staihr  
Julie Ward  
Norina Moy  
401 9<sup>th</sup> St., NW, Suite 400  
Washington, DC 20004  
(202) 585-1915

November 5, 2001